

IN THE
SUPREME COURT OF INDIANA

ORDER AMENDING RULES FOR ADMISSION TO THE BAR
AND
DISCIPLINE OF ATTORNEYS

Under the authority vested in this Court pursuant to *Article 7, Section 4* of the *Constitution of Indiana* to exercise original jurisdiction in the admission to the practice of law and the discipline or disbarment of those admitted, *Rules 14, 17, 18, 19 and 23* of the *Indiana Rules for Admission to the Bar and Discipline of Attorneys* are amended to read as follow (deletions shown by ~~striking~~ and new text shown by underlining):

Rule 14. Review

Review of final action by the State Board of Law Examiners shall be as follows:

Section (1). No appeal to ~~The the~~ State Board of Law Examiners shall ~~adopt~~ be permitted ~~such procedure for review upon the failure of an the applicant, aggrieved by failure of said board to award said applicant a satisfactory grade upon applicant's to pass the first or second examination as shall be approved by said board, and the decision by said board shall be final; and~~ no appeal to the Supreme Court shall be permitted upon the failure of the applicant to pass the first or second examination.

Section (2). The State Board of Law Examiners shall adopt such procedure for review of an applicant, aggrieved by failure of said board to award said applicant a satisfactory grade upon any third examination, as shall be approved by the Supreme Court of Indiana; and no appeal to the Supreme Court shall be permitted upon the failure of the applicant to pass the third examination.

Section (2) 3. The State Board of Law Examiners shall adopt such procedure for review of an applicant, aggrieved by failure of said board to award said applicant a satisfactory grade

upon ~~any re-examination~~ the fourth or fifth examination, as shall be approved by the Supreme Court of Indiana. Any applicant aggrieved by the final review action of said board, in refusing to recommend to the Supreme Court of Indiana the admission of the applicant to practice law in Indiana by reason of applicant's failure to pass the written examination upon ~~any re-examination~~ the fourth or fifth examination, may within twenty (20) days of such final determination by said board, file a petition with said board for review of the same by the Supreme Court; whereupon, the ~~secretary~~ Executive Director of said board shall, within five (5) days thereafter, transmit to the Supreme Court, the file relating to such applicant's written examination, including the transcript of record of all actions by the State Board of Law Examiners relating thereto, and the Court shall enter such order as in its judgment is proper, which shall thereupon become final.

Section (3) 4. Any applicant aggrieved by the final action of the State Board of Law Examiners in refusing to recommend to the Supreme Court of Indiana the admission of the applicant to practice law in Indiana for any reason other than the failure to pass any examination as set forth in ~~paragraphs 14~~ sections (1), and 14(2), and (3) may, within twenty (20) days of receipt of notification setting forth the reason for refusal, which notice shall be sent to the applicant by certified mail with return receipt requested, file a petition with the Supreme Court of Indiana requesting review by this Court of such final determination, and setting forth specifically therein the reasons, in fact or law, assigned as error in the Board's determination, and the Court may order further consideration of the application, in which event the State Board of Law Examiners shall promptly transmit to the Court the complete file relating to such applicant and his or her application, including the transcript of the record of any hearing held by the State Board of Law Examiners relating thereto, and the Court shall enter such order as in its judgment is proper, which shall thereupon become final. The petition for review must be accompanied by a fifty dollar (\$50.00) filing fee unless the petitioner previously paid an application fee to the State Board of Law Examiners as provided in these rules.

Rule 17. Examinations

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Section 5. The Executive Director of the Board of Law Examiners shall notify each applicant, promptly after request for application, of the subject matter which the applicants may expect to be covered in the bar examination interrogatories.

Since the bar examination attempts to establish the applicant's ability to practice law in the State of Indiana, questions requiring answers determining an understanding of Indiana law will be expected. ~~Applicants for admission to the practice of law in Indiana are expected to be familiar with all statutes of limitations, notice to governmental agency requirements, the formal requirements of instruments such as deeds, mortgages, wills and trusts, and the Indiana statute on comparative fault, product liability, medical malpractice, Indiana taxes and the Indiana~~

~~Constitution.~~ From time to time, the Board shall publish a listing of subject matters to be covered on examinations.

Rule 18. Report on Examinations

Section 1. Unless otherwise ordered by the Court, there shall be two (2) bar examinations held annually, in February and July. The examination ~~shall be by printed questions and shall be supervised by the Board as a body; provided, however, that the Board may supplement said written examinations with oral examinations.~~ The number and form of such the questions and the subject matter tested shall be determined by the Board of Law Examiners with the approval of the Supreme Court.

Section 2. The Board of Law Examiners shall act on and report passing or failing to the applicant on all bar examinations within ~~seventy five (75)~~ one hundred (100) days after the final day of the examination, and may inform interested news media of the names of the applicants successfully passing the bar examination.

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Rule 19. Confidentiality

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Section 3. The Board is authorized to disclose information relating to applicants or members of the bar only as follows:

(a) The names of applicants successfully passing the law examination.

(b) The names of any applicant admitted to the practice of law at any admission ceremony.

(c) The name, date of birth, Social Security number and date of application, for placement in a national data bank operated by or on behalf of the National Conference of Bar Examiners.

~~(d) The information submitted to the Law School Admission Council Bar Passage Study under agreement approved by the Supreme Court of Indiana.~~ Upon request of any law school, the names of each of its graduating students that took the law examination and whether each passed or failed the exam.

(e) Information requests by the National Conference of Bar Examiners or from a foreign bar admitting agency, when accompanied by a written authorization and release duly executed by the person about whom such information is sought, providing, however, that no

information received by the Board under an agreement of confidentiality or designation of confidentiality or otherwise restricted by law or these rules shall be disclosed.

(f) Information requested by written request by the Indiana Disciplinary Commission for information relating to disciplinary proceedings, reinstatement proceedings or unauthorized practice of law investigation, providing, however, that no information received by the Board under an agreement of confidentiality or designation of confidentiality or otherwise restricted by law or these rules shall be disclosed.

(g) Copies of documents previously filed by an applicant may be provided upon the applicant's written request. Copies of documents submitted by other parties regarding an applicant may be supplied to the applicant only upon written consent by the party submitting such documents. The complete record of any hearing, including any and all documents or exhibits formally introduced into the record, and any transcript of such hearings may be made available to the applicant who was a party to the hearing pursuant to other provisions of these rules.

Rule 23. Disciplinary Commission and Proceedings

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Section 8. Powers and Duties of the Disciplinary Commission

In addition to the powers and duties set forth in this Rule, the Commission shall have the power and duty to:

(a) appoint with the approval of the Supreme Court an Executive Secretary of the Commission who shall be a member of the Bar of this State and who shall serve at the pleasure of the Commission;

(b) prepare and furnish a form of request for investigation to each person who claims that an attorney is guilty of misconduct and to each Bar Association in this State for distribution to such persons;

(c) supervise the investigation of claims of misconduct;

(d) issue subpoenas, including subpoenas duces tecum; the failure to obey such subpoena ~~shall~~ may be punished as contempt of this Court; or, in the case of an attorney under investigation, shall subject the attorney to suspension under the procedures set forth in subsection 10(f) of this Rule;

(e) do all things necessary and proper to carry out its powers and duties under these Rules;

(f) the right to bring an action in the Supreme Court to enjoin or restrain the unauthorized practice of law.

Section 9. Powers and Duties of the Executive Secretary

In addition to the powers and duties set forth in this Rule, the Executive Secretary shall have the power and duty to:

(a) administer the Commission's work;

(b) appoint, with the approval of the Commission, such staff as may be necessary to assist the Commission to carry out its powers and duties under this Rule;

(c) supervise and direct the work of the Commission's staff;

(d) appoint and assign duties to investigators;

(e) supervise the maintenance of the Commission's records;

(f) issue subpoenas in the name of the Commission, including subpoenas duces tecum. The failure to obey such a subpoena shall be punished as a contempt of this Court; or, in the case of an attorney under investigation, shall subject the attorney to suspension under the procedures set forth in subsection 10(f) of this Rule;

(g) enforce the collection of the registration fee provided in Section 15 against delinquent members of the Bar;

(h) notwithstanding Section 22, cooperate with the attorney disciplinary enforcement agencies of other jurisdictions, including, upon written request, the release of any documents or records that are in the control of the Executive Secretary to the chief executive of an attorney disciplinary enforcement agency in any jurisdiction in which an Indiana attorney is also admitted; and

(i) do all things necessary and proper to carry out the Executive Secretary's duties and powers under this Rule.

Section 10. Investigatory Procedures

(a) Upon receipt of a written, verified claim of misconduct (hereinafter referred to as "the grievance"), from a member of the public, a member of this bar, a member of the Commission, or a Bar Association (hereinafter referred to as "the grievant") and completion of such preliminary investigation as may be deemed appropriate, the Executive Secretary shall:

(1) Dismiss the claim, with the approval of the Commission, if the Executive Secretary determines that it raises no substantial question of misconduct; or

(2) If the Executive Secretary determines that it does raise a substantial question of misconduct, send a copy of the grievance by certified mail to the attorney against whom the grievance is filed (hereinafter referred to as "the respondent") and shall demand a written response. The respondent shall respond within twenty (20) days, or within such additional time as the Executive Secretary may allow, after the respondent receives a copy of the grievance. In the event of a dismissal as provided herein, the person filing the grievance and the respondent shall be given written notice of the Executive Secretary's determination. In the event of a determination that a substantial question exists, the matter shall proceed to subsection (b) hereinafter.

(b) Thereafter, if the Executive Secretary, upon consideration of the grievance, any response from the respondent, and any preliminary investigation, determines there is a reasonable cause to believe that the respondent is guilty of misconduct the grievance shall be docketed and investigated. If the Executive Secretary determines that no such reasonable cause exists, the grievance shall be dismissed with the approval of the Commission. In either event, the person filing the grievance (hereinafter referred to as "the grievant") and the respondent shall be given written notice of the Executive Secretary's determination.

(c) If the grievance is docketed for investigation, the Executive Secretary shall conduct an investigation of the grievance. Upon completion of the investigation the Executive Secretary shall promptly make a report of the investigation and a recommendation to the Commission at its next meeting.

(d) In conducting an investigation of any grievance, or in considering the same, the Executive Secretary or the Commission shall not be limited to an investigation or consideration of only matters set forth in the grievance, but shall be permitted to inquire into the professional conduct of the attorney generally. In the event that the Executive Secretary or the Commission should consider any charges of misconduct against an attorney not contained in the grievance, the Executive Secretary shall notify the attorney of the additional charges under consideration, and the attorney shall make a written response to the additional charges under consideration within twenty (20) days after the receipt of such notification, or within such additional time as the Executive Secretary shall allow.

Any additional charges of misconduct against an attorney, after such notice has been given by the Executive Secretary and the attorney has had an opportunity to reply thereto, may be the subject of a count of any complaint filed against the attorney pursuant to Sections 11 and 12 of this Rule.

(e) It shall be the duty of every attorney against whom a grievance is filed under this Section to cooperate with the Commission's investigation, accept service, comply with the provisions of these rules, and when notice is given by registered or certified mail, claim the same in a timely manner either personally or through an authorized agent. Every attorney is obligated under the terms of Admission and Discipline Rule 2 to notify the Clerk of the Supreme Court of any change of address or name within thirty (30) days of such change, and a failure to file the same shall be a waiver of notice involving licenses as attorneys or disciplinary matters.

(f) An attorney who is the subject of an investigation by the Disciplinary Commission may be suspended from the practice of law upon a finding that the attorney has failed to cooperate with the investigation.

(1) Such a finding may be based upon the attorney's failure to submit a written response to pending allegations of professional misconduct, to accept certified mail from the Disciplinary Commission that is sent to the attorney's official address of record with the Clerk and that requires a written response under this Rule, or to comply with any lawful demand for information made by the Commission or its Executive Secretary in connection with any investigation, including failure to comply with a subpoena issued pursuant to sections 8(d) and 9(f) or unexcused failure to appear at any hearing on the matter under investigation.

(2) Upon the filing with this Court of a petition authorized by the Commission, the Court shall issue an order directing the attorney to respond within ten (10) days of service of the order and show cause why the attorney should not be immediately suspended for failure to cooperate with the disciplinary process. Service upon the attorney shall be made pursuant to sections 12(g) and (h). The suspension shall be ordered upon this Court's finding that the attorney has failed to cooperate, as outlined in subsection (f)(1), above. An attorney suspended from practice under this subsection shall comply with the requirements of sections 26(b) and (c) of this rule.

(3) Such suspension shall continue until such time as (a) the Executive Secretary certifies to the Court that the attorney has cooperated with the investigation; (b) the investigation or any related disciplinary proceeding that may arise from the investigation is disposed; or (c) until further order of the Court.

(4) On motion by the Commission and order of the Court, suspension that lasts for more than six (6) months may be converted into indefinite suspension.

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Section 11.1 Summary Suspensions

(a) Upon finding that an attorney has been found guilty of a crime punishable as a felony,

the Supreme Court may suspend such attorney from the practice of law pending further order of the Court or final determination of any resulting disciplinary proceeding.

(1) The judge of any court in this state in which an attorney is found guilty of a crime shall, within ten (10) days after the finding of guilt, transmit a certified copy of proof of the finding of guilt to the Executive Secretary of the Indiana Supreme Court Disciplinary Commission.

(2) An attorney licensed to practice law in the state of Indiana who is found guilty of a crime in any state or of a crime under the laws of the United States shall, within ten (10) days after such finding of guilt, transmit a certified copy of the finding of guilt to the Executive Secretary of the Indiana Supreme Court Disciplinary Commission.

(3) Upon receipt of information indicating that an attorney has been found guilty of a crime punishable as a felony under the laws of any state or of the United States, the Executive Secretary shall verify the information, and, in addition to any other proceeding initiated pursuant to this Rule, shall file with the Supreme Court a Notice of Finding of Guilt and Request for Suspension, and shall forward notice to the attorney by certified mail. The attorney shall have fifteen (15) days thereafter to file any response to the request for suspension. Thereafter, the Supreme Court may issue an order of suspension upon notice of finding of guilt which order shall be effective until further order of the Court.

~~(b) If after consideration pursuant to Section 11(b), the Commission determines there is reasonable cause to believe the respondent is guilty of misconduct which, if proven, would warrant suspension pending prosecution, it shall file a motion to that effect with this Court, and this Court shall so advise the hearing officer or officers.~~

~~(1) If there has been a determination of reasonable cause as set forth under Section 11.1(b) above, and if the complaint states facts constituting such reasonable cause, the hearing officer or officers may, upon motion of the Disciplinary Commission, issue a rule against the respondent to show cause why he or she should not be suspended pending final determination of the cause and fixing a time and place certain for hearing thereon, which shall be not less than fifteen (15) days after service of notice thereof, if by personal service, and not less than twenty (20) days after mailing, if by certified or registered mail. Procedure at the hearing upon such rule to show cause shall be the same as provided herein for hearing upon the complaint and answer, except the burden of proof shall be upon the respondent. If the respondent, in the opinion of the hearing officer or officers shall fail to sustain such burden of proof, the hearing officer or officers shall submit to this Court a written recommendation whether or not the respondent be suspended pending final determination of the cause.~~

~~(2) Upon receipt of written recommendation for suspension, pending final determination of the cause, this Court may forthwith enter an order of suspension thereon. Respondent shall have fifteen (15) days thereafter to petition this Court for a review and a dissolution of such order.~~

If it appears to the Disciplinary Commission upon the affirmative vote of two-thirds (2/3) of its membership, that: (i) the continuation of the practice of law by an attorney during the pendency of a disciplinary investigation or proceeding may pose a substantial threat of harm to the public, clients, potential clients, or the administration of justice, and (ii) the alleged conduct, if true, would subject the respondent to sanctions under this Rule, the Executive Secretary shall petition the Supreme Court for an order of interim suspension from the practice of law or imposition of temporary conditions of probation on the attorney.

(1) A petition to the Supreme Court for interim relief under this subsection shall set forth the specific acts and violations of the Rules of Professional Conduct submitted by the Commission as grounds for the relief requested. The petition shall be verified and may be supported by documents or affidavits. A copy of the petition, along with a notice to answer, shall be served by the Commission on the attorney in the same manner as provided in sections 12(g) and (h) of this rule. The Executive Secretary shall file a return on service, setting forth the method of service and the date on which the respondent was served with the petition and notice to answer. The attorney shall file an answer to the Commission's petition with the Supreme Court within fourteen (14) days of service. The answer shall be verified and may be supported by documents or affidavits. The attorney shall mail a copy of the answer to the Executive Secretary and file proof of mailing with the court.

(2) The failure of the respondent to answer the Commission's petition within the time granted by this rule for an answer shall constitute a waiver of the attorney's right to contest the petition, and the Supreme Court may enter an order of interim suspension or imposition of temporary conditions of probation in conformity with subsection (b)(5) either upon the record before it, or at the discretion of the Court, after a hearing ordered by the Court.

(3) Upon the filing of the respondent's answer and upon consideration of all of the pleadings, the Court may:

(i) order interim suspension or imposition of temporary conditions of probation upon the petition and answer in conformity with subsection (b)(5);

(ii) deny the petition upon the petition and answer; or

(iii) refer the matter to a hearing officer, who shall proceed consistent with the procedures set forth in subsection (b)(4).

(4) Upon referral to a hearing officer of an interim relief matter from the Supreme Court, the hearing officer shall hold a hearing thereon within thirty (30) days of the date of referral and render a report to the Court containing findings of fact and a recommendation within fourteen (14) days of the hearing. The Court shall thereafter act promptly on the hearing officer's report, findings and recommendation.

(5) The Supreme Court, upon the record before it or after receiving a hearing officer's report, shall enter an appropriate order. If the Court finds that the Commission has shown by a preponderance of the evidence that:

(i) the continuation of the practice of law by the respondent during the pendency of a disciplinary investigation or proceeding may pose a substantial threat of harm to the public, clients, potential clients, or the administration of justice; and

(ii) the conduct would subject the respondent to sanctions under this rule;

the Court shall grant the petition and enter an order of interim suspension or imposition of temporary conditions of probation. The order shall set forth an effective date and remain in effect until disposition of any related disciplinary proceeding or further order of the court.

(6) In the event the Court issues an order of interim relief pursuant to subsection (b)(5), the respondent may file a verified motion with the Supreme Court at any time for dissolution or amendment of the interim order by verified motion that sets forth specific facts demonstrating good cause. A copy of the motion shall be served on the Executive Secretary. Successive motions for dissolution or amendment of an interim order may be summarily dismissed by the Supreme Court to the extent they raise issues that were or with due diligence could have been raised in a prior motion. If the motion is in proper form, the Court may refer the matter to a hearing officer, who shall proceed consistent with the procedures set forth in subsection (b)(4).

(7) In the event a verified complaint for disciplinary action has not been filed by the time an order of interim relief is entered, the Disciplinary Commission shall file a formal complaint within sixty (60) days of the interim relief order. When a respondent is subject to an order of interim relief, the hearing officer shall conduct a final hearing of the underlying issues and report thereon to the Court without undue delay.

(8) An attorney suspended from practice under this section shall comply with the requirements of subsections 26(b) and (c) of this rule.

(c) Upon receipt of an order from a court pursuant to IC 31-16-12-8 or IC 31-14-12-5 stating finding that an attorney has been found to be delinquent in the payment of child support as a result of an intentional violation of an order for support, the Executive Secretary shall file with the Supreme Court a Notice of Intentional Violation of Support Order and Request for Suspension, and shall forward notice to the attorney by certified mail. The attorney shall have fifteen (15) days thereafter to file any response to the request for suspension. Thereafter, the Supreme Court may issue an order of suspension. Such order shall be effective until further order of the Court.

Section 12. Prosecution of Grievances

(a) If the Commission determines that there is reasonable cause to believe respondent is guilty of misconduct and the misconduct would not likely result in a sanction greater than a public reprimand if successfully prosecuted, and if the respondent and the Commission agree to an administrative resolution of the complaint, the Commission may resolve and dispose of minor misconduct by private administrative admonition without filing a verified complaint with the Court. Without limitation, misconduct shall not be regarded as minor if any of the following conditions exist:

- (1) The misconduct involves misappropriation of funds or property;
- (2) The misconduct resulted in or is likely to result in material prejudice (loss of money, legal rights or valuable property rights) to a client or other person;
- (3) The respondent has been publicly disciplined in the past three (3) years;
- (4) The misconduct involved is of the same nature as misconduct for which the respondent has been publicly or privately disciplined in the past five (5) years;
- (5) The misconduct includes dishonesty, misrepresentation, deceit, or fraud on the part of the respondent; or
- (6) The misconduct constitutes the commission of a felony under applicable law.

(b) An administrative admonition shall be issued in the form of a letter from the Executive Secretary to the respondent summarizing the facts and setting out the applicable violations of the Rules of Professional Conduct. A copy of the admonition letter shall first be sent to each Justice of the Supreme Court and to the Division of State Court Administration. The administrative admonition shall be final within thirty (30) days thereafter, unless set aside by the Court. If not set aside by the Court, the admonition shall be sent to the respondent, and notice of the fact that a respondent has received a private administrative admonition shall be given by the Executive Secretary to the grievant. The fact that an attorney has received a private

administrative admonition shall be a public record, which shall be filed with the Clerk of this Court and shall be kept by the Executive Secretary.

(c) In the event the Commission determines that the misconduct, if proven, would warrant disciplinary action and should not be disposed of by way of an administrative admonition, the Executive Secretary shall prepare a verified complaint which sets forth the misconduct with which the respondent is charged and shall prosecute the case.

(d) The complaint shall be entitled "In the Matter of," naming the respondent. Six (6) copies shall be filed with this Court. The complaint may be verified on the basis of information and belief.

(e) Contemporaneously with the filing of the complaint, the Commission shall promptly prepare and furnish to the clerk as many copies of the complaint and summons as are necessary. The clerk shall examine, date, sign and affix his/her seal to the summons and thereupon issue and deliver the papers to the appropriate person for service. Separate or additional summons shall be issued by the clerk at any time upon proper request by the Commission.

(f) The summons shall contain:

- (1) The name and address of the person on whom the service is to be effected;
- (2) The Supreme Court cause number assigned to the case;
- (3) The title of the case as shown by the complaint;
- (4) The name, address, and telephone number of the Disciplinary Commission;
- (5) The time within which this rule requires the person being served to respond, and a clear statement that in case of his or her failure to do so, the allegations in the complaint shall be taken as true.

The summons may also contain any additional information that will facilitate proper service.

~~(e)~~ (g) Upon the filing of such complaint, ~~a copy of the summons and complaint shall be served upon the respondent by delivering a copy of the complaint them to the respondent personally or by sending a copy of the complaint them by registered or certified mail with return receipt requested and returned showing the receipt of the letter.~~

In the event the personal service or service by registered or certified mail cannot be obtained upon any respondent attorney, said summons and complaint shall be served on the Clerk of this Court as set forth below.

(f) (h) Each attorney admitted to practice law in this State shall be deemed to have appointed the Clerk of this Court as his or her agent to receive service of any and all papers, processes or notices which may be called for by any provision of this rule. Such papers, process or notice may be served by filing the same with the Clerk of this Court as the agent for said attorney, together with an affidavit setting forth the facts necessitating this method of service. Upon receipt of such papers, process or notice together with such affidavit, the Clerk of this Court shall immediately mail such papers, process or notice to such attorney at the attorney's address as shown upon the records of the Clerk of this Court, and the Clerk shall make an affidavit showing the mailing of such papers, process or notice to said attorney. Upon the completion of this procedure, said attorney shall be deemed to have been served with such papers, process or notice.

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Section 14. Proceedings Before the Hearing Officer

(a) The rules of pleading and practice in civil cases shall not apply. No motion to dismiss or dilatory motions shall be entertained. The case shall be heard on the complaint and an answer which ~~may~~ shall be filed by the respondent within thirty (30) days after ~~notice of the filing~~ service of the summons and complaint, or such additional time as may be allowed upon written application to the hearing officer that sets forth good cause. A written application for enlargement of time to answer shall be automatically allowed for an additional thirty (30) days from the original due date without a written order of the Hearing Officer. Any motion for automatic enlargement of time filed pursuant to this rule shall state the date when such answer is due and the date to which time is enlarged. The motion must be filed on or before the original due date or this provision shall be inapplicable. All subsequent motions shall be so designated and shall be granted by the hearing officer only for good cause shown. An answer, ~~if filed, may~~ shall assert any legal defense. Six (6) copies of such answer shall be filed with the Court. ~~An answer need not be filed, in which case the complaint shall be taken as denied.~~ A respondent may on a showing of good cause petition for a change of hearing officer within ten (10) days after the appointment of such hearing officer.

(b) The answer shall admit or controvert the averments set forth in the complaint by specifically denying designated averments or paragraphs or generally denying all averments except such designated averments or paragraphs as the respondent expressly admits. If the respondent lacks knowledge or information sufficient to form a belief as to the truth of an averment, he or she shall so state and his statement shall be considered a denial. If in good faith the respondent intends to deny only a part of an averment, he or she shall specify so much of it as is true and material and deny the remainder. All denials shall fairly meet the substance of the averments denied. Averments in a complaint are admitted when not denied in the answer. ~~An~~ The answer, if filed, may assert any legal defense. Six (6) copies of such answer shall be filed with the Court. ~~An answer need not be filed, in which case the complaint shall be taken as denied.~~ A respondent may on a showing of good cause petition for a change of hearing officer within ten (10) days after the appointment of such hearing officer.

(c) When a respondent has failed to answer a complaint as required by this section and that fact is made to appear by affidavit and an application for judgment on the complaint, the allegations set forth in the complaint shall be taken as true. If a respondent who has failed to answer has appeared in the action, he or she (or, if appearing by counsel, his or her counsel) shall be served with written notice of the application for judgment on the complaint at least seven (7) days prior to the hearing on such application. Upon application for judgment on the complaint and in the absence of any answer by the respondent, the hearing officer shall take the facts alleged in the complaint as true and promptly tender a report to the Supreme Court in conformity with subsection (h). If a hearing officer has not been appointed by the time an application for judgment on the complaint is filed and no appearance has been filed by or on behalf of the respondent, the Supreme Court shall act directly on the application for judgment on the complaint.

~~(b) (d) Either the Executive Secretary or the respondent may file with the hearing officer a motion to take depositions or a motion to produce certain documents or records, setting forth the reasons why such depositions should be taken or such records should be produced. The hearing officer may permit the taking of such depositions or may require the production of documents or records under such terms and conditions as the hearing officer may deem proper. Discovery shall be available to the parties on Such terms and conditions shall that, as nearly as practicable, follow the Indiana Rules of Civil Procedure pertaining to discovery proceedings.~~

~~(e) (e)~~ At the discretion of the hearing officer, or upon the request of either party, a pre-hearing conference ~~may~~ shall be ordered for the purpose of obtaining admissions, narrowing the issues presented by the pleadings, requiring an exchange of the names and addresses of prospective witnesses and the general nature of their expected testimony, considering the necessity or desirability of amendments to the verified complaint and answer thereto, and such other matters as may aid in the disposition of the action.

~~(d) (f)~~ The grievant, the respondent, and the Commission shall be given not less than fifteen (15) days written notice of the hearing date. The respondent shall have the right to attend the hearing in person, to be represented by counsel, to cross-examine the witnesses testifying against him or her and to produce at the hearing and require the production of evidence and witnesses in his or her own behalf at the hearing, as in civil proceedings. All notices connected with processing of such complaint shall be issued only under the direction of the hearing officer or hearing officers, and no other court or judicial officer of this State shall have jurisdiction to issue any orders or processes in connection with a disciplinary complaint. Upon request of a party, the hearing officer may issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it or his or her attorney, who shall fill it in before service. The hearing officer may also authorize an attorney admitted to practice law in this state who has appeared for a party, as an officer of the court, to issue and sign such subpoena. Subpoenas for the attendance of witnesses and production of documentary evidence shall conform to the provisions of Trial Rule 45. The hearing

officer or officers shall have authority to enforce, quash or modify subpoenas upon proper application by an interested party or witness.

~~(e)~~ (g) The proceedings may be summary in form and shall be without the intervention of a jury and shall be reported.

~~(f)~~ (h) Within thirty (30) days after the conclusion of the hearing, the hearing officer shall determine whether misconduct has been proven by clear and convincing evidence and shall submit to the Supreme Court written findings of fact. Either party may request or the hearing officer at his or her own motion may make a recommendation concerning the disposition of the case and the discipline to be imposed. Such recommendation is not binding on the Supreme Court. A copy of said findings and any recommendations shall be served by the hearing officer on the respondent and the Executive Secretary of the Disciplinary Commission at the time of filing same with the Supreme Court.

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Section 17. Resignations and Admission of Misconduct

(a) An attorney who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may resign as a member of the bar of this Court, or may consent to discipline, but only by delivering to the Court an affidavit stating that the respondent desires to resign or to consent to discipline and that:

(1) The respondent's consent is freely and voluntarily rendered; he or she is not being subjected to coercion or duress; he or she is fully aware of the implications of submitting his or her consent;

(2) The respondent is aware that there is a presently pending investigation into, or proceeding involving, allegations that there exist grounds for his or her discipline the nature of which shall be specifically set forth;

(3) The respondent acknowledges that the material facts so alleged are true; and

(4) The respondent submits his or her resignation or consent because the respondent knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, he or she could not successfully defend himself or herself.

(b) Upon receipt of the required affidavit, this Court ~~shall~~ may enter an order approving the resignation or imposing a disciplinary sanction on consent.

(c) Such order shall be a matter of public record. However, the affidavit required under the provisions of (a) above shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

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Section 17.1. Termination of Probation

Unless otherwise provided in the order of probation, an attorney on probation at any time after 10 days prior to expiration of the period of probation may serve on the Executive Secretary (i) an affidavit showing successful compliance with all terms of probation, and (ii) an application for termination of probation. The Executive Secretary shall have ten (10) days after receipt to serve written objections on the attorney. Upon service of any objection the probation shall continue until further ordered by the Court. If no objection has been served, termination shall be effective ten (10) days (or thirteen (13) days if the application is served by mail) after receipt by the Executive Secretary.

Section 17.2. Revocation of Probation

(a) Motion to Revoke. If the Executive Secretary receives information that an attorney on probation may have violated any condition of probation, the Executive Secretary may file a verified motion to revoke probation with the Court, setting forth specific facts in support of the motion. A motion for revocation of an attorney's probation shall not preclude the Commission from filing independent disciplinary charges based on the same conduct alleged in the motion.

(b) Response to Motion. Within ten (10) days after service of a petition under subparagraph (a), the attorney shall file an answer under penalties of perjury admitting or controverting each of the allegations contained in the revocation motion. A general denial shall not be allowed and, if filed, will be taken as a failure to answer. The attorney's failure to answer timely will be deemed to be an admission to the averments in the motion to revoke probation, unless the Court in its discretion elects to give consideration to any answer that is filed before the Court acts on the revocation motion.

(c) Burden of Proof and Matters Considered. The Executive Secretary has the burden of establishing by a preponderance of the evidence any violations of conditions of probation. Any reliable evidence of probative value may be considered regardless of its admissibility under rules of evidence so long as the opposing party is accorded a fair opportunity to controvert it.

(d) Disposition. After the time for filing an answer has expired, the Court may dispose of the matter on the pleadings and supportive materials or, in the event there are material factual disputes, may refer it to a hearing officer who shall hold a hearing on the revocation motion within fourteen (14) days of the date the hearing officer is appointed. The hearing officer shall file with the Clerk of the Court findings and a recommendation within ten (10) days of the hearing. Following receipt of the hearing officer's findings

and recommendation, the Court shall enter an order granting or denying the revocation motion and entering an appropriate disposition consistent with the Court's ruling in the matter.

Section 17.3. Service, Filing and Time Calculation

(a) Service. Service upon the attorney and the Executive Secretary shall be by personal service or by certified mail return receipt requested. Service shall be complete and sufficient upon mailing when served upon the attorney at his current address of record on the roll of attorneys, regardless of whether the attorney claims the mail.

(b) Filing. All papers served shall be filed with the Clerk of the Court.

c) Time Calculation. If service is made by mail, an additional three (3) days shall be allowed for service of any responsive document under Section 17.1 or 17.2.

Section 17.4. Interim Suspension

In addition to a motion for revocation of probation, the Executive Secretary may also file a verified motion setting forth good cause for the immediate interim suspension of the attorney's license to practice. Upon a showing of good cause, the Court may order the attorney's license suspended on an interim basis until such time as the revocation motion has been determined.

...

Section 21. Annual registration fee

Funds necessary to enable the Commission to carry out its functions, obligations and duties under this rule shall be provided as follows:

(a) Except as provided in subsection (b), each attorney who is a member of the bar of this Court on August 1, 1978, ~~and each attorney who is a member on August 1 of each year thereafter, and each attorney admitted *pro hac vice* pursuant to Admission and Discipline rule 3, Section 2,~~ shall so long as the attorney is a member of the Bar of this Court, pay a registration fee of ~~seventy dollars (\$70)~~ eighty dollars (\$80.00) a year on or before October 1 of such year. For each day after October 1 of a year that an attorney's registration fee is unpaid, an additional delinquent fee shall be added to the registration fee in the amount of \$5.00 for each day of delinquency, not to exceed \$100.00.

Any attorney admitted to practice law in this State on a date subsequent to August 1 of each year shall, within ten (10) days of the date of his or her admission to the bar of the Court, or by October 1 of said year, whichever date is later, pay a registration fee of ~~\$70.00~~ eighty dollars (\$80.00). The Clerk of this Court shall furnish to the Commission the names and addresses of all persons admitted to practice subsequent to August 1 of each year as said persons are admitted.

(b) No registration fee shall be required of an attorney who files with the Clerk, on or before the date the registration fee would otherwise be due, an affidavit that he or she neither holds judicial office nor is engaged in the practice of law in this State. An attorney who is sixty-five (65) years old or older and files such an exemption affidavit may designate his or her exemption affidavit as a Retirement Affidavit. Such an affidavit once filed shall be effective for each succeeding year. An exempt or retired attorney shall promptly notify the Clerk of a desire to return to active status, and pay the applicable registration fee for the current year, prior to any act of practicing law.

(c) On or before August 1, 1975, and the first day of August in each subsequent year, the Clerk of this Court shall mail to each attorney then admitted to the bar of this Court or practicing law in this state, a notice that the registration fee must be paid or an exemption affidavit filed with the clerk on or before the first day of October. The clerk shall also send a copy of such notice to each clerk for each circuit and superior court in this State for posting in a prominent place in the courthouse and to the Indiana State Bar Association, the Bobbs-Merrill Publishing Company and the West Publishing Company for publication in their respective magazine and advance sheets. Provided, however, the failure of the Clerk to send such notice shall not mitigate the duty to pay the required fee.

(d) Any attorney who fails to pay the registration fee or file the exemption affidavit referred to in subsections (a) and (b) shall be subject to an order of suspension from the practice of law in this State and shall be subject to the sanctions for contempt of this Court in the event he or she thereafter engages in the practice of law in this State. In the event there is no other basis for the continued suspension of the attorney's license to practice law, such an attorney's privilege to practice law shall be reinstated upon submission to the Clerk of a written application for reinstatement and payment of:

(1) the unpaid registration fee for the year of suspension;

(2) any delinquent fees for the year of suspension due pursuant to subsection (a);

(3) the unpaid registration fee for the year of reinstatement, if different from the year of suspension; and

(4) an administrative reinstatement fee of two hundred dollars (\$200.00).

The Clerk shall distribute the administrative reinstatement fee referred to in ~~paragraph~~ subsection (d)(4) in equal shares to the Disciplinary Commission Fund and the Continuing Legal Education Fund.

(e) The Clerk of this Court shall issue a certificate of good standing approved by ~~this~~ Court to an attorney upon the receipt of the annual registration fee.

(f) All funds collected by the Clerk of this Court on behalf of the Disciplinary Commission shall be deposited in a special account to be maintained by the Clerk and designated "Clerk of the Courts-Annual Fees." As collected, the Clerk shall thereafter

issue those funds to the Disciplinary Commission, and the Executive Secretary shall cause the same to be deposited into a special account designated "Supreme Court Disciplinary Commission Fund." Disbursements from the fund shall be made solely upon vouchers signed by or pursuant to the direction of the Chief Justice of this Court. All salaries to be paid shall be specifically ordered and approved by this Court.

These amendments shall take effect on January 1, 2001.

The Clerk of this Court is directed to forward a copy of this order to the Clerk of each Circuit Court in the State of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Supreme Court of Indiana; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; the libraries of all law schools in the state; The Michie Company; and West Publishing Company.

West Publishing Company is directed to publish this order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this ____ day of December, 2000.

FOR THE COURT

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.